

CHAPTER 119
RECORD CHECK EVALUATIONS FOR HEALTH CARE PROGRAMS

PREAMBLE

These rules establish procedures for the performance of record check evaluations by the department of human services for personnel employed by health care facilities and other health care programs listed in Iowa Code section 135C.33. Record check evaluations are performed, at the request of a prospective employer, on persons who have been found to have been convicted of a crime under a law of any state or have a record of founded child or dependent adult abuse, to determine whether the crimes or founded abuses warrant prohibition of employment.

441—119.1(135C) Definitions.

“*Department*” means the department of human services.

“*Health care program*” means any of the facilities and programs listed in Iowa Code chapter 135C that are subject to record check evaluations.

441—119.2(135C) When record check evaluations are requested.

119.2(1) *Record check evaluations on prospective employees.* Health care programs shall request a record check evaluation when they decide to consider for employment a person whose background check indicates a criminal or dependent adult abuse or child abuse record. Criminal and dependent adult abuse background checks are required on all prospective employees, including employees who have terminated employment for any reason or any length of time and wish to return to the same health care program.

119.2(2) *Record check evaluations on current employees.* Employers may request a record check evaluation on current employees when a current employee’s background check indicates a criminal or dependent adult or child abuse record. An employer may request a current criminal or dependent adult or child abuse record check when the employer learns from any source that a current employee has a criminal or dependent adult or child abuse record that has not been previously evaluated at the health care program.

119.2(3) *Transfer of employment.* If a person owns or operates more than one facility, and an employee of one of the facilities is transferred to another facility without a lapse in employment, the facility is not required to request additional criminal or abuse record checks of the employee or obtain a new record check evaluation.

441—119.3(135C) Request for evaluation.

119.3(1) *Required documentation.* The employer and the prospective employee shall complete and the employer shall submit Form 470-2310, Record Check Evaluation, to the department to request an evaluation. The employer shall submit the form and required documentation to the Department of Human Services, Central Abuse Registry, 1305 East Walnut, Des Moines, Iowa 50319-0114. The department shall not process evaluations that are not signed by the prospective employee. The position sought or held must be clearly written on the first page of Form 470-2310, Record Check Evaluation. Form 470-2310 shall be accompanied by the following documents:

a. A copy of the documentation of the applicant’s status on the DCI criminal history database generated within 30 days of the time that the request for evaluation is submitted to the department.

b. A copy of the Iowa Criminal History, if there is a history, as provided to the employer by the division of criminal investigations.

c. A copy of the documentation of the applicant’s status on the dependent adult abuse registry generated within 30 days of the time that the request for evaluation is submitted to the department.

119.3(2) Additional documentation.

a. The employer may provide or the department may request from the prospective employee or employer information to assist in performance of the evaluation that includes, but is not limited to, the following:

- (1) Documentation of criminal justice proceedings.
- (2) Documentation of rehabilitation.
- (3) Written employment references or applications.
- (4) Documentation of substance abuse education or treatment.
- (5) Criminal history records, child abuse information, and dependent adult abuse information from other states.
- (6) Documentation of the applicant's prior residences.

b. Any person or agency that might have pertinent information regarding the criminal or abuse history and rehabilitation of a prospective employee may be contacted.

c. The department may check the child abuse registry during a record check evaluation. If there is a record of child abuse, the department shall consider the information in the child abuse record in reaching a decision regarding employability.

441—119.4(135C) Completion of evaluation.

119.4(1) Considerations. The department shall consider the following when conducting a record check evaluation:

- a. The nature and seriousness of the crime or founded child or dependent adult abuse in relation to the position sought or held.
- b. The time elapsed since the commission of the crime or founded child or dependent adult abuse.
- c. The circumstances under which the crime or founded abuse was committed.
- d. The degree of rehabilitation.
- e. The likelihood that the person will commit a crime or founded child or dependent adult abuse again.
- f. The number of crimes or instances of founded child or dependent adult abuse committed by the person involved.

119.4(2) Notice of decision. The department shall issue a notice of decision in writing to the employer that requested the record check evaluation. The department shall send a copy of the notice of decision to the person who has applied for employment, if the person's address is available. If the address is not available, the department shall send the prospective employee's copy of the notice to the employer.

- a. The notice shall be valid only for employment with the employer that requested the record check evaluation.
- b. The notice shall not be valid for employment with any other prospective employer.
- c. Record check evaluations are valid for employment that commences within 30 days from the date of notice of decision.
- d. The notice of decision shall contain the notice of right to appeal.

441—119.5(135C) Appeal rights. Any person or the person's attorney may file a written statement with the department requesting an appeal of the record check evaluation decision within 30 days of the date of the notice of the results of the record check evaluation in accordance with 441—Chapter 7.

These rules are intended to implement Iowa Code section 135C.33.

[Filed 6/13/01, Notice 4/18/01—published 7/11/01, effective 9/1/01]